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10 **IN THE UNITED STATES DISTRICT COURT**
11 **DISTRICT OF NEVADA**

12 DANTE PATTISON,

13 Plaintiff,

14 vs.

15 THE STATE OF NEVADA, et al.,

16 Defendants.

Case No. 3:14-cv-00020-MMD-VPC

**DEFENDANTS' MOTION FOR EXTENSION OF
TIME TO OPPOSE PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT**

(SECOND REQUEST)

AND

**MOTION FOR EXTENSION OF TIME TO FILE
DEFENDANTS' MOTION FOR SUMMARY
JUDGMENT**

(FIRST REQUEST)

21 Defendants, Bruce Bannister, Francis Chelli, Doni K. Jennings, Grant Lee, Kara Krause
22 LeGrand, and Cole Morrow, by and through counsel, Adam Paul Laxalt, Nevada Attorney
23 General, and Beth Hickman, Senior Deputy Attorney General, move for an extension of time
24 of time to April 29, 2015, to oppose Plaintiff's Motion for Summary Judgment and to file
25 Defendants Motion for Summary Judgment. This motion is brought pursuant to Federal Rule
26 of Civil Procedure 6(b) and is based on the following memorandum of points and authorities
27 and all papers and pleadings on file in this case.

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Memorandum of Points and Authorities

Fed. R. Civ. P. 6(b) provides, in relevant part, "When an act may or must be done within a specified time, the court may, for good cause, extend the time: (A) with or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires" The "good cause" standard "primarily considers the diligence of the party seeking the amendment." *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992). A party demonstrates good cause for the modification of a scheduling order by showing that, even with the exercise of due diligence, he or she was unable to meet the timetable set forth in the order. See *Zivkovic v. Southern California Edison Co.*, 302 F.3d 1080, 1087 (9th Cir. 2002).

Dispositive motions in this matter are due today, March 18, 2015. #62. Today is also the extended deadline Defendants received to oppose Plaintiff's motion for summary judgment, which was necessary to allow Defendants the opportunity to conduct discovery before briefing dispositive motions. Good cause exists to extend time because, despite diligence on the part of Defendants, Plaintiff's misconduct has hindered Defendants' ability to complete discovery prior to the dispositive motion deadline established by the Court.

On December 31, 2014, Defendants moved for leave to depose Plaintiff. #72. The motion was granted on January 16, 2015, and Plaintiff's deposition was to occur February 6, 2015. Defendants hired a stenographer and coordinated with the prison to conduct the deposition of Plaintiff at Northern Nevada Correctional Center (NNCC) on February 6, 2015; however, Plaintiff refused to participate. Ex. A. On February 20, 2015, the Court denied Plaintiff's motion to stay his deposition, informing him he "initiated this case and defendants have the right to take his deposition pursuant to Fed. R. Civ. P. 27." #103. As such, Defendants have noticed Plaintiff's deposition, currently scheduled for March 30, 2015.¹

Defendants' request for an extension of time is brought in good faith and is not being

¹ Defendants previously noticed Plaintiff's deposition for March 23, 2015. However, defense counsel primarily assigned to this matter is participating in a trial proceeding before the Honorable Judge Hicks in Case No. 3:11-cv-00548-LRH-WGC, which was anticipated to conclude by March 20, 2015, but will likely continue beyond March 23, 2015. As such, Defendants have re-noticed the deposition of Plaintiff for March 30, 2015, at 1:00 p.m. at NNCC.

1 brought for the purpose of delay. Plaintiff's deposition testimony is something which
2 Defendants are entitled to obtain, and the testimony is necessary to properly brief dispositive
3 motions. Accordingly, Defendants respectfully request an extension to April 29, 2015, to
4 oppose Plaintiff's motion for summary judgment and to file Defendants' motion for summary
5 judgment.

6 Dated: March 18, 2014.

7 ADAM PAUL LAXALT
8 Attorney General

9 By

Beth Hickman

10 BETH HICKMAN
11 Senior Deputy Attorney General
12 Bureau of Litigation

13 *Attorneys for Defendants*

14 *IT IS SO ORDERED*
15 *Valerie O. John*
16 U.S. MAGISTRATE JUDGE

17 DATED: *March 23, 2015*
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CERTIFICATE OF SERVICE

I certify that I am an employee of the Office of the Attorney General, State of Nevada, and that on March 18, 2015, I served a copy of **Defendants' Motion For Extension Of Time To Oppose Plaintiff's Motion For Summary Judgment (Second Request) AND Motion for Extension of time to File Defendants' Motion For Summary Judgment (First Request)** by U.S. District Court CM/ECF Electronic Filing to:

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Pamela L. Stanley